

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY TABAREZ,

Plaintiff,

No. 2:04-cv-0360 LKK KJN P

vs.

DIANA BUTLER, et al.,

Defendants.

MEMORANDUM & ORDER

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Plaintiff, a state prisoner proceeding with counsel, seeks relief pursuant to 42 U.S.C. § 1983. On February 10, 2010, the court held a telephone conference regarding a discovery dispute. Appearing by phone were Craig C. Weaver for plaintiff and David A. Carrasco for defendants. This memorandum memorializes what occurred during the conference and the court's order thereon.

At issue was a January 27, 2010 subpoena *duces tecum* served by plaintiff that included the following eight requests:

1. Please produce any and ALL DOCUMENTS, WRITINGS, video and audio recordings of the RIOT that are subject to your custody and control.
2. Please produce any and ALL DOCUMENTS and WRITINGS pertaining to any internal affairs investigations that took place following the RIOT.
3. Please produce any and ALL DOCUMENTS and WRITINGS, including

1 memorandums or other correspondence, pertaining to any breach of policy or use of force  
2 regarding the RIOT.

3 4. Please produce any and ALL DOCUMENTS and WRITINGS regarding any  
5 disciplinary measures that were taken following the RIOT and the DISPOSITIONS of  
6 those proceedings.

7 5. Please produce any and ALL DOCUMENTS and WRITINGS regarding any type of  
8 investigation, administrative or otherwise, that was conducted pertaining to the events of  
9 the RIOT and the DISPOSITIONS of those investigations.

10 6. Please produce any and ALL DOCUMENTS and WRITINGS regarding or relating to  
11 the RIOT.

12 7. Please produce any and ALL DOCUMENTS and WRITINGS identifying the name or  
13 names of the complainants of the RIOT.

14 8. Please produce any and ALL Folsom State Prison weekly status reports for the six (6)  
15 weeks leading up to the RIOT.

16 During the telephonic conference, plaintiff withdrew Request Nos. 1, 6 and 7.

17 Defendants acknowledged that Request Nos. 2 and 3 were appropriate and stated they will  
18 provide the documents and writings related to those requests. With respect to Request No. 5,  
19 defendants agreed that they will produce, if such documents exist, any documents related to an  
20 administrative investigation of the riot that have not already been provided to plaintiff.

21 With respect to Request No. 4, defendants shall produce any disciplinary documents  
22 against the named defendants that discuss any breach of policy or the underlying facts concerning  
23 the riot or conduct of the defendants, and the determination as to whether any defendant's  
24 conduct violated policies. However, penalties imposed against the defendants, if any, and other  
25 personal information may be redacted.

26 Request No. 8 is beyond the scope of discovery at this time and, accordingly, defendants  
27 are not presently required to respond to this request.

28 DATED: February 12, 2010.

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31 /s/ Kendall J. Newman  
32 KENDALL J. NEWMAN  
33 UNITED STATES MAGISTRATE JUDGE  
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